



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Pacific Islands Fish and Wildlife Office
300 Ala Moana Boulevard, Room 3-122
Honolulu, Hawaii 96850



Mr. Randall Iwase
Chair, Public Utilities Commission
State of Hawai'i
465 South king St, #103
Honolulu, Hawaii 96813

PUBLIC UTILITIES
COMMISSION

2018 DEC 27 P 12:46

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Subject: Request for Early Coordination on Environmental Compliance for Renewable Wind Projects
Prior to Power Purchase Agreement Finalization

Dear Mr. Iwase:

This letter is in reference to the Public Utilities Commission's (PUC) evaluation of power purchase agreements (PPA) submitted to you by Hawaiian Electric Company's (HECO) on behalf of wind energy companies for renewable energy generation on the islands of O'ahu, Maui, and Hawai'i. The U.S. Fish and Wildlife Service (Service) continues to document impacts to federally and state-listed threatened and endangered species from all existing Hawaii wind facilities. We are concerned about the cumulative effect new wind energy projects may have on endangered species, particularly the Hawaiian hoary bat (*Lasiurus cinereus semotus*). The Service would like to work with the PUC *prior* to your approval of the PPAs, to ensure appropriate coordination has occurred on potential project impacts to State and Federal trust resources, in accordance with section 10 of the federal Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 et seq.), and state statute HRS Chapter 195D.

Renewable wind energy projects across the State of Hawai'i are witnessing higher than anticipated take (e.g., harm, injury, or death) of the Hawaiian hoary bat and other listed species. As a result, the Service and Hawaii Department of Land and Natural Resources, Division of Forestry and Wildlife (DLNR DOFAW) need time to coordinate with each wind project proponent in order to allow for a timely and effective permitting process.

The Service understands that it is the sole responsibility of the independent power producer to complete all environmental compliance steps, and report on the progress of environmental compliance to HECO. However, HECO has not been coordinating with the Service and DOFAW to verify that a wind energy producer has completed the necessary compliance procedures. It has been our experience that wind project applicants do not approach the Service and DOFAW until after finalizing their PPA. Therefore, in most instances, at the time the PPA is submitted to the PUC for approval, the project proponent is still in the process of obtaining Federal and State endangered species permits.

Once the PPA is issued, a Commercial Operations Date or other project implementation deadline and minimum power generation thresholds are set. Due to the endangered species impacts we are currently documenting at other wind facilities, the permitting process for receiving the appropriate federal and state permits are complex, and may require halting operations during certain times of the day and/or year; implementing low wind speed curtailment regimes; or other measures that limit production ability and affect power production costs. Additionally, for any impacts to listed species that cannot be

avoided, permittees are required to offset this impact with compensatory mitigation. Again, the development of these mitigation plans can be complex and challenging to develop, especially if an applicant has already finalized their PPA. These PPA requirements can severely restrict the applicant's ability to appropriately develop and implement endangered species permit avoidance, minimization and compensatory mitigation measures. This circumstance has led to several existing wind energy facilities operating without the appropriate or in violation of their State and Federal endangered species permits and limits the conservation measures that can be implemented by the wind facilities to reduce impacts.

We believe these challenging circumstances can be avoided with early coordination between the wind energy proponents, the Service and DOFAW *prior to negotiation of the PPA with HECO and approval by the PUC*. This early coordination would greatly assist proponent's planning efforts (including operations, power production and financial expectations), make permitting processes and timelines more efficient (less time and cost), and may assist the wind energy company with siting or structural modifications to reduce environmental impacts, increasing the likelihood they can successfully apply for and obtain the necessary endangered species permits. Together, we anticipate these efficiencies will enhance and support the PUC's approval process by increasing the certainty that projects seeking PPA approval will be able to generate the amount of power and be able to be operational within a specified timeframe.

To address this situation, we ask that the PUC delay approval of any new wind facility PPAs, including the recently submitted Palehua wind facility project, until the project proponent has met with the Service and DOFAW. Such a meeting will allow us to ensure they are aware of their obligations under State and Federal endangered species laws and the steps necessary to ensure compliance. We strongly suggest only projects that have met this obligation should be awarded a PPA. The Service is available to discuss our specific concerns, permitting requirements, and processing timelines with the PUC at your convenience.

We recognize the importance of alternative energy generation and are prepared to assist the PUC in your efforts to meet the State's renewable energy targets, while ensuring ESA compliance and safeguarding Hawai'i's threatened and endangered species. If you have any questions regarding this letter or have suggestions on how we could better coordinate environmental compliance steps, please contact Darren LeBlanc, Planning and Consultations Team Lead at (808)792-9403 or darren_leblanc@fws.gov.

Sincerely,

Mary M
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Mary M. Abrams, Ph.D.
Field Supervisor
Pacific Islands Fish & Wildlife Office

cc:
Carilyn Shon
Hawai'i State Energy Office Administrator
Department of Business Economic Development and Tourism

David G. Smith, Administrator
Division of Forestry and Wildlife
Department of Land and Natural Resources